

AMENDED IN SENATE JANUARY 8, 2014

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 11, 2013

SENATE BILL

No. 693

Introduced by Senator Correa

February 22, 2013

An act to add and repeal ~~Sections 17052.5, 17052.7, and 17158~~ *Section 17052.7* of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 693, as amended, Correa. Personal income tax: credits: ~~exclusions: school expenses: qualified teachers.~~

The Personal Income Tax Law ~~imposes a tax based upon gross income, and defines gross income as all income from whatever source derived, unless specifically excluded. The Personal Income Tax Law~~ allows various credits against the tax imposed by that law.

This bill would, for taxable years beginning on or after January 1, 2014, and before January 1, 2019, ~~allow either an exclusion from gross income or a credit against that tax to qualified parents and guardians, as defined, for education-related expenses, as defined, in specified amounts. This bill would also allow a credit against that tax for amounts paid or incurred by a qualified teachers teacher, as defined, for instructional materials and classroom supplies, as defined, not to exceed \$250.~~

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) While ensuring the quality education of all of California's
4 school children is a shared responsibility of the general public, it
5 is foremost the duty of individual parents and teachers.

6 ~~(b) State tax relief for education can help empower and engage~~
7 ~~low- and middle-income families in personally caring for their~~
8 ~~own school children's learning needs, which they know most~~
9 ~~intimately.~~

10 (e)

11 (b) State tax relief for education expenses, leveraged with current
12 federal deductions, can further support and strengthen new teachers
13 for successful careers in their noble profession.

14 SEC. 2. ~~Section 17052.5 is added to the Revenue and Taxation~~
15 ~~Code, to read:~~

16 ~~17052.5.—(a) For each taxable year beginning on or after~~
17 ~~January 1, 2014, and before January 1, 2019, there shall be allowed~~
18 ~~as a credit against the "net tax," as defined in Section 17039, the~~
19 ~~qualified amount that was paid or incurred for qualified~~
20 ~~education-related expenses for one or more dependent children by~~
21 ~~a qualified parent or guardian during the taxable year.~~

22 ~~(b) For purposes of this section:~~

23 ~~(1) "Dependent children" means children who attend~~
24 ~~kindergarten or any of grades 1 to 12, inclusive, in California at a~~
25 ~~public, charter, or private school that has a current private school~~
26 ~~affidavit on file with the State Department of Education in the~~
27 ~~taxable year and who meet the requirements of Section~~
28 ~~152(e)(1)(D) and (E) of the Internal Revenue Code.~~

29 ~~(2) "Household income" has the same meaning as "adjusted~~
30 ~~gross income," as defined in Section 17072.~~

31 ~~(3) "Qualified amount" means the amount paid for incurred for~~
32 ~~qualified education expenses.~~

33 ~~(4) (A) "Qualified education-related expenses" means the~~
34 ~~kindergarten or any of grades 1 to 12, inclusive, costs of: textbooks~~
35 ~~and school supplies, including, but not limited to, pens, paper,~~
36 ~~pencils, notebooks, calculators, and rulers; the rental or purchase~~
37 ~~of educational equipment required for classes during the regular~~
38 ~~school day; school uniforms that are not part of a cocurricular~~

1 activity; computers, computer hardware, and educational computer
2 software used to learn academic subjects; tuition for a private school
3 with kindergarten or any of grades 1 to 12, inclusive, for college
4 courses at public institutions or independent nonprofit colleges;
5 or for summer school courses that satisfy high school graduation
6 requirements; psychoeducational diagnostic evaluations to assess
7 the cognitive and academic abilities of pupils; special education
8 and related services for pupils who have an individualized
9 education program; out-of-school enrichment programs, tutoring,
10 and summer programs that are academic in nature; and public
11 transportation or third-party transportation expenses for traveling
12 directly to and from school.

13 (B) “Qualified education-related expenses” shall not include
14 any expenses for the items described in subparagraph (A) that are
15 used in a trade or business.

16 (5) “Qualified parent or guardian” means a parent or legal
17 guardian of a full-time pupil who is under 21 years of age at the
18 close of the school year who meets both of the following
19 requirements:

20 (A) Both the pupil and the parent or guardian reside in California
21 when the qualified education-related expenses are paid or incurred.

22 (B) The household income does not exceed 200 percent of the
23 federal Income Eligibility Guidelines published by the Food and
24 Nutrition Service of the United States Department of Agriculture
25 for use in determining eligibility for reduced price meals.

26 (c) The total amount of credit available pursuant to this section
27 per qualified parent or guardian shall not exceed five hundred
28 dollars (\$500) per taxable year, except as provided in paragraphs
29 (1) and (2).

30 (1) If the qualified parent or guardian is a married individual,
31 a credit pursuant to this section shall be allowed only if the
32 qualified parent or guardian and the qualified parent or guardian’s
33 spouse file a joint return for the taxable year in which the credit
34 is claimed.

35 (2) If qualified parents or guardians file individual returns, the
36 total combined credit amount allowed pursuant to this section on
37 both returns shall not exceed five hundred dollars (\$500).

38 (d) In the case where the credit allowed by this section exceeds
39 the “net tax,” the excess may be carried over to reduce the “net

1 tax” in the following year, and succeeding four years if necessary,
2 until the credit is exhausted.

3 (e) (1) ~~The Franchise Tax Board may prescribe rules, guidelines,~~
4 ~~or procedures necessary or appropriate to carry out the purposes~~
5 ~~of this section.~~

6 (2) ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
7 ~~Division 3 of Title 2 of the Government Code shall not apply to~~
8 ~~any standard, criterion, procedure, determination, rule, notice, or~~
9 ~~guideline established or issued by the Franchise Tax Board~~
10 ~~pursuant to this section.~~

11 (f) (1) ~~The credit allowed by this section shall be in lieu of any~~
12 ~~exclusion allowed by Section 17158.~~

13 (2) ~~The credit allowed by this section shall not be allowed by~~
14 ~~for any expense incurred by a qualified teacher for instructional~~
15 ~~material and classroom supplies, as defined by Section 17052.7.~~

16 (g) ~~This section shall remain in effect only until December 1,~~
17 ~~2019, and as of that date is repealed, unless a later enacted statute,~~
18 ~~that is enacted before January 1, 2019, deletes or extends that date.~~

19 ~~SEC. 3.~~

20 *SEC. 2.* Section 17052.7 is added to the Revenue and Taxation
21 Code, to read:

22 17052.7. (a) (1) For each taxable year beginning on or after
23 January 1, 2014, and before January 1, 2019, there shall be allowed
24 as a credit against the “net tax,” as defined in Section 17039, an
25 amount equal to the amount paid or incurred by a qualified teacher
26 during the taxable year for instructional materials and classroom
27 supplies, not to exceed two hundred fifty dollars (\$250), except
28 as provided in paragraph (2).

29 (2) Subject to the maximum credit amount allowed per qualified
30 teacher, for qualified teachers who are married and filing a joint
31 return there shall be allowed a credit not to exceed five hundred
32 dollars (\$500).

33 (b) For purposes of this section:

34 (1) “Instructional materials and classroom supplies” means any
35 unreimbursed expenses, otherwise deductible as a trade or business
36 expense, for books, supplies, computer equipment, including
37 related software and services and other equipment, and
38 supplementary materials used in the classroom, including, but not
39 limited to, supplies for courses in health and physical education.

1 (2) “Qualified teacher” means a teacher who meets all of the
2 following requirements:

3 (A) The individual has worked at least 900 hours in the school
4 year as a teacher, in a school offering instruction in kindergarten
5 or any of grades 1 to 12, inclusive, in California at a public, charter,
6 or private school that has a current private school affidavit on file
7 with the State Department of Education in the taxable year.

8 (B) The teacher is primarily engaged in the duty of imparting
9 knowledge to pupils by teaching, instructing, or lecturing.

10 (C) The teacher customarily and regularly exercises discretion
11 and independent judgment in performing the duties of a teacher.

12 (D) The teacher is not employed as a tutor, teaching assistant,
13 instructional aide, student teacher, day care provider, vocational
14 instructor, or similar position.

15 (c) The credit allowed pursuant to this section shall be available
16 as follows:

17 (1) For taxable years beginning on or after January 1, 2014, and
18 before January 1, 2015, the credit shall be available only to
19 qualified teachers with no more than one year of employment as
20 a qualified teacher.

21 (2) For taxable years beginning on or after January 1, 2015, and
22 before January 1, 2016, the credit shall be available only to
23 qualified teachers with no more than two consecutive years of
24 employment as a qualified teacher.

25 (3) For taxable years beginning on or after January 1, 2016, and
26 before January 1, 2019, the credit shall be available only to
27 qualified teachers with no more than three consecutive years of
28 employment as a qualified teacher.

29 (d) In the case where the credit allowed by this section exceeds
30 the “net tax,” the excess may be carried over to reduce the “net
31 tax” in the following year, and succeeding four years if necessary,
32 until the credit is exhausted.

33 (e) (1) The Franchise Tax Board may prescribe rules, guidelines,
34 or procedures necessary or appropriate to carry out the purposes
35 of this section.

36 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
37 Division 3 of Title 2 of the Government Code shall not apply to
38 any standard, criterion, procedure, determination, rule, notice, or
39 guideline established or issued by the Franchise Tax Board
40 pursuant to this section.

1 ~~(f) The credit allowed by Section 17052.6 shall not be allowed~~
2 ~~for any expense incurred by a qualified teacher for instructional~~
3 ~~material and classroom supplies, as defined by paragraph (1) of~~
4 ~~subdivision (b).~~

5 ~~(g)~~

6 ~~(f) This section shall remain in effect only until December 1,~~
7 ~~2019, and as of that date is repealed, unless a later enacted statute,~~
8 ~~that is enacted before January 1, 2019, deletes or extends that date.~~

9 ~~SEC. 4. Section 17158 is added to the Revenue and Taxation~~
10 ~~Code, to read:~~

11 ~~17158. (a) For each taxable year beginning on or after January~~
12 ~~1, 2014, and before January 1, 2019, gross income shall not include~~
13 ~~the qualified amount paid or incurred for qualified~~
14 ~~education-related expenses for one or more dependent children by~~
15 ~~a qualified parent or guardian during the taxable year.~~

16 ~~(b) For purposes of this section:~~

17 ~~(1) "Dependent children" means children who attend~~
18 ~~kindergarten or any of grades 1 to 12, inclusive, in California at a~~
19 ~~public, charter, or private school that has a current private school~~
20 ~~affidavit on file with the State Department of Education in the~~
21 ~~taxable year and who meet the requirements of Section~~
22 ~~152(e)(1)(D) and (E) of the Internal Revenue Code.~~

23 ~~(2) "Qualified amount" means the amount paid for incurred for~~
24 ~~qualified education expenses.~~

25 ~~(3) (A) "Qualified education-related expenses" means the~~
26 ~~kindergarten or any of grades 1 to 12, inclusive, costs of: textbooks~~
27 ~~and school supplies, including, but not limited to, pens, paper,~~
28 ~~pencils, notebooks, calculators, and rulers; the rental or purchase~~
29 ~~of educational equipment required for classes during the regular~~
30 ~~school day; school uniforms that are not part of a cocurricular~~
31 ~~activity; computers, computer hardware, and educational computer~~
32 ~~software used to learn academic subjects; tuition for a private school~~
33 ~~with kindergarten or any of grades 1 to 12, inclusive, for college~~
34 ~~courses at public institutions or independent nonprofit colleges;~~
35 ~~or for summer school courses that satisfy high school graduation~~
36 ~~requirements; psychoeducational diagnostic evaluations to assess~~
37 ~~the cognitive and academic abilities of pupils; special education~~
38 ~~and related services for pupils who have an individualized~~
39 ~~education program; out-of-school enrichment programs, tutoring,~~
40 ~~and summer programs that are academic in nature; and public~~

1 ~~transportation or third-party transportation expenses for traveling~~
2 ~~directly to and from school.~~

3 ~~(B) “Qualified education-related expenses” shall not include~~
4 ~~any expenses for the items described in subparagraph (A) that are~~
5 ~~used in a trade or business.~~

6 ~~(4) “Qualified parent or guardian” means a parent or legal~~
7 ~~guardian of a full-time pupil who is under 21 years of age at the~~
8 ~~close of the school year who meets both of the following~~
9 ~~requirements:~~

10 ~~(A) Both the pupil and the parent or guardian reside in California~~
11 ~~when the qualified education-related expenses are paid or incurred.~~

12 ~~(B) The household income does not exceed 200 percent of the~~
13 ~~federal Income Eligibility Guidelines published by the Food and~~
14 ~~Nutrition Service of the United States Department of Agriculture~~
15 ~~for use in determining eligibility for reduced price meals.~~

16 ~~(c) The total qualified amount excluded from gross income shall~~
17 ~~not exceed two thousand five hundred dollars (\$2,500) per taxable~~
18 ~~year per qualified parent or guardian, except as provided in~~
19 ~~paragraphs (1) and (2).~~

20 ~~(1) If the qualified parent or guardian is a married individual,~~
21 ~~an exclusion pursuant to this section shall be allowed only if the~~
22 ~~qualified parent or guardian and the qualified parent or guardian’s~~
23 ~~spouse file a joint return for the taxable year in which the exclusion~~
24 ~~is claimed.~~

25 ~~(2) If qualified parents or guardians file individual returns, the~~
26 ~~total combined exclusion amount allowed pursuant to this section~~
27 ~~on both returns shall not exceed two thousand five hundred dollars~~
28 ~~(\$2,500).~~

29 ~~(d) (1) The Franchise Tax Board may prescribe rules,~~
30 ~~guidelines, or procedures necessary or appropriate to carry out the~~
31 ~~purposes of this section.~~

32 ~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
33 ~~Division 3 of Title 2 of the Government Code shall not apply to~~
34 ~~any standard, criterion, procedure, determination, rule, notice, or~~
35 ~~guideline established or issued by the Franchise Tax Board~~
36 ~~pursuant to this section.~~

37 ~~(e) The exclusion allowed by this section shall be in lieu of any~~
38 ~~credit allowed by Section 17052.5.~~

1 ~~(f) This section shall remain in effect only until December 1,~~
2 ~~2019, and as of that date is repealed, unless a later enacted statute,~~
3 ~~that is enacted before January 1, 2019, deletes or extends that date.~~
4 ~~SEC. 5.~~
5 *SEC. 3.* This act provides for a tax levy within the meaning of
6 Article IV of the Constitution and shall go into immediate effect.